

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH KLUGER AND SUSAN LEWIS, h/w :	:	CIVIL ACTION NO.
	:	
<i>Plaintiffs</i>	:	
	:	
vs.	:	
	:	
GREAT NORTHERN INSURANCE	:	
COMPANY	:	
	:	
<i>Defendant</i>	:	

NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, Great Northern Insurance Company, respectfully files this Notice of Removal of this case from the Pennsylvania Court of Common Pleas of Philadelphia County to this Court, and in support thereof, avers as follows:

1. Defendant hereby exercises its rights under the provisions of 28 U.S.C. §§ 1332, 1441, and 1446 to remove this action from the Pennsylvania Court of Common Pleas of Philadelphia County, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania, because, as set forth herein, this is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

I. TIMELINESS OF REMOVAL

2. This action was commenced on December 5, 2022 by Complaint filed in the Court of Common Pleas of Philadelphia County, Pennsylvania, and captioned as Joseph Kluger and Susan Lewis, h/w v. Great Northern Insurance Company, December Term 2022, No. 00322. See Complaint, attached hereto as Exhibit A.

3. This Complaint was served on Defendant on December 12, 2022. See Affidavit of Service, attached hereto as Exhibit B.

4. Thus, Defendant has timely filed this Notice of Removal because Defendant filed it within 30 days of service of the Complaint setting forth the claims upon which Plaintiffs base the Philadelphia action. See 28 U.S.C. § 1446(b).

II. DIVERSE CITIZENSHIP OF PARTIES

5. Pursuant to their Complaint, Plaintiffs reside at 237 Righters Mill Road, Gladwyne, Pennsylvania 19035.

6. Defendant is an Indiana company, with a principal place of business in New Jersey.

7. Thus, the parties are citizens of different states.

III. AMOUNT IN CONTROVERSY EXCEEDS \$75,000

8. Plaintiffs allege in their Complaint that Defendant has breached their insurance contract and acted in bad faith, and requests damages “in an amount in excess of \$50,000, including all compensatory and/or consequential damages allowed by law, interest, and court costs, and such other relief as this Honorable Court deems just and proper.” Exhibit A, Count I.

9. More specifically, Plaintiffs claim, “As a result of Chubb’s breach, it is indebted to Plaintiffs, less upgrades and the prior payments made by Chubb, in the amount of \$171,267.49.” Exhibit A, ¶ 58.

10. The Complaint also seeks an award attorney’s fees and punitive damages and “such other relief as this Honorable Court deems just and proper,” under the Pennsylvania Insurance Bad Faith Statue, 42 Pa.C.S.A. § 8371. Exhibit A, Wherefore Clause. “When both actual and punitive damages are recoverable, punitive damages are properly considered in determining whether the jurisdictional amount has been satisfied.” Minissale v. State Farm Fire & Cas. Co., 988 F. Supp.

2d 472, 476 (E.D. Pa. 2013) (quoting Packard v. Provident Nat'l Bank, 994 F.2d 1039, 1046 (3d Cir. 1993)).

11. Relatedly, attorney's fees are necessarily part of the amount in controversy, if such fees are available to a successful plaintiff pursuant to a statutory cause of action. Neri v. State Farm Fire & Cas. Co., Civil Action No. 19-0355, 2019 U.S. Dist. LEXIS 136820, at *8 (E.D. Pa. Aug. 13, 2019) (finding that consideration of potential punitive damages and attorney's fees recoverable in a claim of bad faith under 42 Pa. Cons. Stat. Ann. § 8371 was proper when determining the amount in controversy).

12. Thus, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

IV. CONCLUSION

13. As such, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332 and, accordingly, this matter is subject to removal under 28 U.S.C. §§ 1441 and 1446, because there is diversity of citizenship and because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

14. Venue is appropriate in this Court since the jurisdiction of this Court includes Philadelphia County, where the Philadelphia action is pending.

15. Pursuant to the provisions of 28 U.S.C. § 1446(a), Defendant has attached herewith a copy of the Complaint filed in the Court of Common Pleas of Philadelphia County in this action. See Exhibit A.

16. Defendant will provide immediate notice of the filing of this Notice of Removal to Plaintiff as required by 28 U.S.C. § 1446(d).

17. Defendant will file a certified copy of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Philadelphia County as required by 28 U.S.C. § 1446(d), once a time-stamped copy of the Notice of Removal is received.

WHEREFORE, Defendant, Great Northern Insurance Company, respectfully provides notice that the action presently pending in the Court of Common Pleas of Philadelphia County, Pennsylvania be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

WHITE AND WILLIAMS LLP

BY: /s/ Edward M. Koch
Edward M. Koch, Esquire
Matthew M. LaMonaca, Esquire
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
215.864.7000
koche@whiteandwilliams.com
lamonacam@whiteandwilliams.com

Dated: January 11, 2023

*Attorneys for Defendant,
Great Northern Insurance Company*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH KLUGER AND SUSAN LEWIS, h/w :	:	CIVIL ACTION NO.
	:	
<i>Plaintiffs</i>	:	
	:	
vs.	:	
	:	
GREAT NORTHERN INSURANCE	:	
COMPANY	:	
	:	
<i>Defendant</i>	:	

NOTICE TO PLAINTIFF

TO: Andrew R. Ochroch, Esquire
RICHARD M. OCHROCH & ASSOCIATES, P.C.
318 S. 16th Street
Philadelphia, PA 19102
(215) 735-2707
achroch@ochroch-law.com
Attorney for Plaintiffs

PLEASE TAKE NOTICE that Defendant, Great Northern Insurance Company, has filed a Notice in the United States District Court for the Eastern District of Pennsylvania for removal of the action now pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, captioned Joseph Kluger and Susan Lewis, h/w v. Great Northern Insurance Company, December Term 2022, No. 00322.

FURTHER take notice that Defendant, Great Northern Insurance Company, has also filed with the United States District Court for the Eastern District of Pennsylvania a copy of the Complaint that was filed and entered in the Court of Common Pleas of Philadelphia County and served upon Great Northern Insurance Company. A copy of said Notice of Removal is attached to this Notice and is hereby served upon you.

Respectfully submitted,

WHITE AND WILLIAMS LLP

BY: /s/ Edward M. Koch
Edward M. Koch, Esquire
Matthew M. LaMonaca, Esquire
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
215.864.7000
koche@whiteandwilliams.com
lamonacam@whiteandwilliams.com

Dated: January 11, 2023

*Attorneys for Defendant,
Great Northern Insurance Company*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH KLUGER AND SUSAN LEWIS, h/w :	:	CIVIL ACTION NO.
	:	
<i>Plaintiffs</i>	:	
	:	
vs.	:	
	:	
GREAT NORTHERN INSURANCE	:	
COMPANY	:	
	:	
<i>Defendant</i>	:	

PROOF OF FILING

TO THE CLERK OF THE COURT:

Edward M. Koch, Esquire, hereby certifies that a copy of the foregoing Notice of Removal will be filed with the Prothonotary of the Philadelphia County Court of Common Pleas immediately upon receipt of the time-stamped copy from the United States District Court for the Eastern District of Pennsylvania and served upon Plaintiffs' counsel.

Respectfully submitted,

WHITE AND WILLIAMS LLP

BY: /s/ Edward M. Koch
Edward M. Koch, Esquire
Matthew M. LaMonaca, Esquire
1650 Market Street
One Liberty Place, Suite 1800
Philadelphia, PA 19103-7395
215.864.7000
koche@whiteandwilliams.com
lamonacam@whiteandwilliams.com

Dated: January 11, 2023

*Attorneys for Defendant,
Great Northern Insurance Company*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH KLUGER AND SUSAN LEWIS, h/w :	:	CIVIL ACTION NO.
	:	
<i>Plaintiffs</i>	:	
	:	
vs.	:	
	:	
GREAT NORTHERN INSURANCE	:	
COMPANY	:	
	:	
<i>Defendant</i>	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon counsel, by filing with the Court's ECF system, addressed as follows:

Andrew R. Ochroch, Esquire
RICHARD M. OCHROCH & ASSOCIATES, P.C.
318 S. 16th Street
Philadelphia, PA 19102
(215) 735-2707
achroch@ochroch-law.com
Attorney for Plaintiffs

By: /s/ Edward M. Koch
Edward M. Koch, Esquire

Dated: January 11, 2023